

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: APRIL 27, 2006

FILE NO.:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: RICHARD W. SHAW, CAPTAIN
TEMPLE STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS
HIT SHOOTING, JANUARY 4, 2005, REVIEW #SH2136291**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on January 4, 2005.

The Committee met on April 27, 2006 and consisted of Commanders Kenneth Brazile (Commander of the Department), Eric Smith (Leadership and Training Division) and Cecil Rhambo (FOR I). The Committee determined the use of force by Deputy Alan Bash # [REDACTED] Deputy Herbert Howland # [REDACTED] Deputy Robert Chivas # [REDACTED] Deputy Janet Bartholomew # [REDACTED] Deputy Douglas Jewett # [REDACTED] and Deputy Andrew Leos # [REDACTED] was within Department policy.

The committee directed the unit commander to send Deputy Bash to Laser Village training.

Please advise the deputies of this finding.

JGJ:MAH:mh

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OFFICER INVOLVED SHOOTING FORM

INVESTIGATIVE NARRATIVE

EXHIBITS A THROUGH C

- A** Homicide Bureau's completed report of the shooting incident under File Number 005-00145-0572-013.
- B** District Attorney's Letter of Opinion.
- C** Photographs of the scene.

MISCELLANEOUS DOCUMENTS

Assignment card for all deputies involved.
Training Records for all deputies involved.
Temple Station In-service for Day Shift 01-04-05.

Los Angeles County Sheriff's Department

Officer Involved Shooting

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Report Date: 01-04-05		Bureau/Station/Facility: Temple Station		Admin. Invest.? <input type="checkbox"/>	Hit? <input checked="" type="checkbox"/>
URN: 005-00415-0572-013		Date: 01-04-05		Time: 1320	
City or Station: Temple Station		Nature of Incident: DEPUTY INVOLVED HIT SHOOTING			
Location: Darlington Avenue South San Gabriel					
Location Type (circle one or more): <input checked="" type="checkbox"/> Backyard <input type="checkbox"/> Beach <input type="checkbox"/> Business <input type="checkbox"/> Freeway <input type="checkbox"/> Industrial <input type="checkbox"/> Park <input type="checkbox"/> Parking Lot <input type="checkbox"/> Residence <input type="checkbox"/> Rural <input type="checkbox"/> School <input type="checkbox"/> Street <input type="checkbox"/> Other: _____	Lighting (circle only one): <input type="checkbox"/> Darkness <input checked="" type="checkbox"/> Daylight <input type="checkbox"/> Other <input type="checkbox"/> Street Lights	Incident Type (circle one or more): <input type="checkbox"/> Accidental <input checked="" type="checkbox"/> Armed Person <input type="checkbox"/> Fleeing Suspect <input type="checkbox"/> Foot Pursuit <input type="checkbox"/> Gun Take Away <input type="checkbox"/> Moving Vehicle <input type="checkbox"/> Sniper/Ambush <input type="checkbox"/> Startle <input type="checkbox"/> Struggle Involved <input type="checkbox"/> Traffic Stop <input type="checkbox"/> Unarmed Person <input type="checkbox"/> Unintentional <input type="checkbox"/> Vehicle Pursuit <input type="checkbox"/> Warrant Service Other: _____		Initiated by (circle only one): <input type="checkbox"/> Arrest Warrant <input type="checkbox"/> Call <input type="checkbox"/> Observation <input type="checkbox"/> One Person Unit <input type="checkbox"/> Other <input type="checkbox"/> Search Warrant <input type="checkbox"/> Two Person Unit	
	Weather (circle only one): <input type="checkbox"/> Clear <input checked="" type="checkbox"/> Cloudy <input type="checkbox"/> Fog <input type="checkbox"/> Rain			Prior Activity (circle only one): <input type="checkbox"/> Detective <input type="checkbox"/> Inmate Transport <input type="checkbox"/> Other <input type="checkbox"/> Routine Patrol	
	Distance: 25 to 40 FEET				
Total # of Shots Fired by Deputy 53	Total # of Shots Fired by Suspect 2	Aero Unit? <input checked="" type="checkbox"/> Canine Unit? <input type="checkbox"/>			

Employee #	Last Name	First Name	M.I.	Shift Time (circle only one):	Shift Type (circle only one):
	SANDOR	ANDREW	M.	EM PM <input checked="" type="checkbox"/> Day	<input checked="" type="checkbox"/> Regular <input type="checkbox"/> Overtime <input type="checkbox"/> Off Duty
Employee #	Last Name	First Name	M.I.	Shift Time (circle only one):	Shift Type (circle only one):
	TAWDI	WALDI	W.	EM PM <input checked="" type="checkbox"/> Day	<input checked="" type="checkbox"/> Regular <input type="checkbox"/> Overtime <input type="checkbox"/> Off Duty
Employee #	Last Name	First Name	M.I.	Shift Time (circle only one):	Shift Type (circle only one):
	ALSKY	TIM	R.	EM PM <input checked="" type="checkbox"/> Day	<input checked="" type="checkbox"/> Regular <input type="checkbox"/> Overtime <input type="checkbox"/> Off Duty

Last Name	First Name	M.I.
Street Address	City	Zip Code
Last Name	First Name	M.I.
Street Address	City	Zip Code
Last Name	First Name	M.I.
Street Address	City	Zip Code

Employee #	Last Name	First Name	M.I.	(circle one or more):	Witness to shooting
	MADDALENA	RICHARD	S.	<input checked="" type="checkbox"/> On Duty <input type="checkbox"/> Present during shooting	<input type="checkbox"/> Involved in shooting
Employee #	Last Name	First Name	M.I.	(circle one or more):	Witness to shooting
				<input checked="" type="checkbox"/> On Duty <input type="checkbox"/> Present during shooting	<input type="checkbox"/> Involved in shooting

Employee #	Last Name	First Name	M.I.
	ALLEN	DUANE	W.

Employee #	Last Name	First Name	M.I.
	BROWN	DAVID	

PSTD Use Only	
SH #	2136219

Arrival Date	01-04-05	Arrival Time	1500	Date Submitted	03-07-06	Date of Recommendation	
Employee #	[REDACTED]	Last Name	Morejon	First Name	Elier		M.I
Employee #	[REDACTED]	Last Name	Key	First Name	Gregory		M.I L.
Employee #	[REDACTED]	Last Name	Seno	First Name	Bennett		M.I W.

Method

(AW)	Arwen	(CV)	Other Weapon: Vehicle
(BC)	Baton:(Control)	(CB)	Other Weapon: Blunt Object
(BI)	Baton:(Impact)	(CO)	Other Weapon: Other
(BF)	Bodily Fluids	(PK)	Personal Weapon: Feet/Leg: (Kick)
(CN)	Canine	(PS)	Personal Weapon: Feet/Leg: (Sweep)
(CR)	Carotid Restraint	(PH)	Personal Weapon (Hand/Arm)
(CH)	Choke Hold	(PP)	Personal Weapon (Push)
(CT)	Control Holds: (Control Techniques)	(PO)	Personal Weapon (Other)
(TT)	Control Holds:(Team Takedown)	(RS)	Resistance
(TD)	Control Holds:(Takedown)	(CN)	Restraint Device (Capture Net)
(CE)	Chemical	(RH)	Restraint Device (Handcuffs)
(OC)	Chemical Agents (OC Spray)	(HB)	Restraint Device:Hobble (Legs Only)
(TG)	Chemical Agents (Tear Gas)	(TP)	Restraint Device:Hobble (TARP)
(EX)	Explosives	(RE)	Restraint Device: REACT Belt
(FH)	Firearm (Handgun)	(SP)	Sap
(FR)	Firearm (Rifle)	(SH)	Shield
(FS)	Firearm (Shotgun)	(SG)	37mm Stinger
(FO)	Firearm (Other)	(SB)	Sting Ball
(FB)	Flashbang	(ST)	Stun Bag
(FL)	Flashlight	(TR)	Taser
(OE)	Other Weapon: Edged	(UC)	Uncooperative

Type of Injury

(AB)	Abrasion
(BR)	Bruise
(BU)	Burn
(CP)	Complaint of Pain
(CO)	Concussion
(DH)	Death
(DI)	Dislocation
(DB)	Dog Bite
(FR)	Fractures
(GS)	Gunshot
(HB)	Human Bite
(LC)	Lacerations
(ND)	Nerve Damage
(OD)	Organ Damage
(PA)	Paralysis
(PW)	Puncture Wound
(SD)	Soft Tissue Damage
(ST)	Sprain/Twists
(UN)	Unconscious
(RM)	Refused Med Treatment
(NN)	NONE

Body Part Injured

(AD)	Abdomen
(AK)	Ankle
(AR)	Arm
(BK)	Back
(BT)	Buttocks
(CH)	Chest
(EL)	Elbow
(FA)	Face
(FE)	Feet
(FI)	Fingers
(GE)	Genitals
(GR)	Groin
(HD)	Hand
(HE)	Head
(HI)	Hip
(IN)	Internal
(KN)	Knees
(LE)	Leg
(NK)	Neck
(SH)	Shoulder
(WR)	Wrist

Brand

(AK)	AK-47	(IV)	Iver Johnson	(RI)	RGI
(BN)	Benelli	(JE)	Jennings	(RO)	Rossi
(BR)	Beretta	(LO)	Lord	(SW)	Smith & Wesson
(BW)	Browning	(LU)	Luger	(SR)	Sturm Ruger
(CH)	Charter Arms	(MA)	Marlin	(ST)	Sterling
(CO)	Colt	(MO)	Mossberg	(TA)	Taurus
(DA)	Davis Industries	(NC)	NCI aka SKS	(WE)	Weatherby
(GL)	Glock	(NA)	North American	(WN)	Winchester
(HA)	Harrington & Richardson	(NO)	Norinco	(US)	US Government
(HI)	Hi Standard	(RA)	Raven	(YY)	Handmade (Inmate)
(HK)	H & K	(RM)	Remington	(XX)	Homemade (Non-Inmate)
(IT)	Hitcha	(RG)	RG	(ZZ)	Other Brand

Caliber

(9)	9 mm	(24)	.243 caliber	(41)	.410 guage
(10)	10 mm	(25)	.25 caliber	(44)	.44 caliber
(12)	12 guage	(30)	.308 caliber	(45)	.45 caliber
(20)	20 guage	(35)	.357 caliber	(50)	50 mm
(21)	.22-250	(36)	30-60 caliber	(SL)	Slug
(22)	.22 caliber	(38)	.38 caliber	(WW)	Other caliber
(23)	.223 caliber	(40)	.40 caliber		

FORCE APPLIED (one code per block)

[illegible]

Officer Involved Shooting Involved Employee Information

URN: 005-00415-0572-013

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E 1	Employee # [REDACTED]		Last Name HOWLAND		First Name HERBERT		M.I.	
	Sex: M	Race: W	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): 52M		
	Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:	
	Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>
	Hrs of sleep prior to shooting: 8		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket w/ Vest Raid Jacket no Vest Uniform no Vest Uniform w/ Vest		Other Factors:	
	Age: [REDACTED]	Height: 5' 11"	Weight: 203					
	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]		Laser Training Date: [REDACTED]			
	Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>		Certification Unit: [REDACTED]	Prior Shootings? [REDACTED]	Number of Prior Shootings: [REDACTED]	
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
E 2	Employee # [REDACTED]		Last Name CHIVAS		First Name ROBERT		M.I. J.	
	Sex: M	Race: H	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): 53B1		
	Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:	
	Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>
	Hrs of sleep prior to shooting: 7 TO 8		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Raid Jacket w/ Vest Plain Clothes w/ Vest Uniform no Vest Raid Jacket no Vest Uniform w/ Vest		Other Factors:	
	Age: [REDACTED]	Height: 6' 2"	Weight: 220					
	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]		Laser Training Date: [REDACTED]			
	Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>		Certification Unit: [REDACTED]	Prior Shootings? <input checked="" type="checkbox"/>	Number of Prior Shootings: 1	
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
E 3	Employee # [REDACTED]		Last Name BARTHOLOMEW		First Name JANET		M.I. L.	
	Sex: F	Race: W	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): 53B1		
	Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:	
	Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>
	Hrs of sleep prior to shooting: 7 1/2		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Raid Jacket w/ Vest Plain Clothes w/ Vest Uniform no Vest Raid Jacket no Vest Uniform w/ Vest		Other Factors:	
	Age: [REDACTED]	Height: 5' 6"	Weight: 160					
	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]		Laser Training Date: [REDACTED]			
	Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>		Certification Unit: [REDACTED]	Prior Shootings? [REDACTED]	Number of Prior Shootings: [REDACTED]	
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		

Officer Involved Shooting Involved Employee Information

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E 4	Employee # [REDACTED]		Last Name LEOS		First Name ANDREW		M.I. J.	
	Sex: M	Race: H	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): TRAINING COORDINATOR		
	Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:	
	Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>
	Hrs of sleep prior to shooting: 8 +		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest		Other Factors:	
	Age: [REDACTED]	Height: 5' 9"	Weight: 195	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]	Laser Training Date: [REDACTED]	
	Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit: [REDACTED]	Prior Shootings? <input checked="" type="checkbox"/>	Number of Prior Shootings: 1		
	Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]	
	Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]	
	E 5	Employee # [REDACTED]		Last Name BASH		First Name ALAN		M.I.
Sex: M		Race: W	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): 55T1		
Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:		
Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>	
Hrs of sleep prior to shooting: 8		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest		Other Factors:		
Age: [REDACTED]		Height: 6' 2"	Weight: 257	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]	Laser Training Date: [REDACTED]	
Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit: [REDACTED]	Prior Shootings? <input checked="" type="checkbox"/>	Number of Prior Shootings: 1			
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]		
E 6		Employee # [REDACTED]		Last Name JEWETT		First Name DOUGLAS		M.I. F.
	Sex: M	Race: W	Rank: DEPUTY	Unit Assignment: TEMPLE STATION		Work Assignment (Unit #, Module, etc.): 53B1		
	Shift Time (circle only one): EM PM (Day)		Shift Type (circle only one): (Regular) Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>		Substance Used:	
	Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>		Coroner Case #	Interviewed? <input checked="" type="checkbox"/>
	Hrs of sleep prior to shooting: 8		Duty Time (hrs): [REDACTED]		Clothing (circle only one): Plain Clothes no Vest Raid Jacket w/ Vest Plain Clothes w/ Vest Uniform no Vest Uniform w/ Vest		Other Factors:	
	Age: [REDACTED]	Height: 6' 2"	Weight: 180	Range Qualification Date: [REDACTED]		PPC Qualification Date: [REDACTED]	Laser Training Date: [REDACTED]	
	Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit: [REDACTED]	Prior Shootings? <input type="checkbox"/>	Number of Prior Shootings: [REDACTED]		
	Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]	
	Field Training Officer Emp # [REDACTED]		Last Name [REDACTED]		First Name [REDACTED]		M.I. [REDACTED]	

Officer Involved Shooting Suspect Information

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S 1	Last Name RIVERA		First Name CRUZ		M.I.
	AKA Last Name		First Name		M.I.
Sex: M Race: H		Street Address:		City	State & Zip Code
Work Phone:		Home Phone:	Social Security #:		Driver's License #:
Age: 48 D.O.B. 02-15-56		Height: 5' 8" Weight: 160	FBI #		CII #
Booking # NONE		Primary Charge: NONE - DECEASED		Secondary Charge:	
Coroner Case? <input checked="" type="checkbox"/>		Coroner Case # 2005-00115		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input checked="" type="checkbox"/>		Apprehended? <input checked="" type="checkbox"/>		Mental Illness? <input checked="" type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:		Driver's License #:
Age: D.O.B.		Height: Weight:	FBI #		CII #
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:		Driver's License #:
Age: D.O.B.		Height: Weight:	FBI #		CII #
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:		Driver's License #:
Age: D.O.B.		Height: Weight:	FBI #		CII #
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	

See Other Side

Los Angeles County Sheriff's Department

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**LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION**

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

August 11, 2005

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbaker Road
Commerce, California 90040

In Re: J.S.I.D. File #: 05-0010
L.A.S.D. File #: 005-00145-0572-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 4, 2005 fatal shooting of Cruz Rivera by Los Angeles County Sheriff's Deputies Alan Bash, Herbert Howland, Robert Chivas, Janet Bartholomew, Douglas Jewett, and Andrew Leos. We have concluded that the deputies acted reasonably and lawfully in self-defense and the defense of others during this incident.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department (LASD), Homicide Bureau, and submitted to this office on June 30, 2005 by Lieutenant Al Grotefend and Detective Robert Harris. The District Attorney's Command Center was notified of this incident and Deputy District Attorney William H. Johnson and District Attorney Senior Investigator [REDACTED] immediately responded to the scene. They were given a briefing and a walk-through of the scene by investigators. No compelled statements were considered as part of this analysis.

FACTUAL ANALYSIS

In the late morning hours of January 4, 2005, deputies responded to a "man firing a gun" call at [REDACTED] Darlington Avenue, Rosemead. Cruz Rivera's [REDACTED] told deputies her [REDACTED] suffered from bi-polar disorder, had a gun, and was shooting it. Deputies found Rivera armed with a .357 magnum revolver, a spear, a 6" fixed bladed knife, and a dagger. Rivera left the residence in his truck and tried to leave the neighborhood, but was unsuccessful due to the deputies' containment of the area. Rivera refused deputies' commands to exit the truck and put his hands over his head. He eventually drove back to his residence, went into his house, and then entered his backyard. Rivera ignored the deputies' commands to drop his weapons. He made slashing motions with the spear at the deputies and fired his revolver at them. Deputies returned fire fatally wounding Cruz.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
WEBSITE: <http://da.co.la.ca.us>

Captain Raymond Peavy
August 11, 2005
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Residents of the neighborhood saw Rivera driving recklessly and brandishing the revolver out of the driver's side window of his truck. They also saw him firing rounds and heard LASD deputies order him to drop his weapons. One resident, [REDACTED] had a brief conversation with Rivera wherein Rivera expressed his intention to kill the responding deputies.

Deputy Medical Examiner Louis A. Pena, M.D., conducted an autopsy on the body of Cruz Rivera on January 6, 2005. He ascribed the cause of death to be multiple gunshot wounds. Toxicological reports show the presence of marijuana in Rivera's system at the time of the incident.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming such right that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams*, (1977) 75 Cal.App. 3d 731. In protecting oneself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person in the same or similar circumstances to be necessary to prevent the injury which appears to be imminent. *California Jury Instructions—Criminal (CALJIC)*, 5.30 AND 5.32.

Actual danger is not necessary to justify the use of deadly force in self-defense or the defense of others. If one is confronted by the appearance of danger, which one believes would result in great bodily injury or death, and a reasonable person in the same position would so believe, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo*, (1948) 85 Cal.App. 2d 577.

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. *Graham v. Conner*, (1989) 490 U.S. 386.

When peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins*, (1961) 189 Cal.App. 2d 575.

On January 4, 2005, Cruz Rivera was armed with a revolver, a spear, a 6" inch fixed-bladed knife, and a dagger. He was seen by several witnesses firing the revolver in the neighborhood before deputies arrived. He then attempted to elude deputies by leaving the containment area in his truck. He drove the vehicle recklessly and brandished his revolver outside the driver's side door window. When Rivera returned to his residence, he told [REDACTED] of his homicidal intent to kill the deputies. He refused to obey deputies' commands to drop his weapons and, once in his backyard, he started a gun battle with deputies by firing his revolver at

Captain Raymond Peavy
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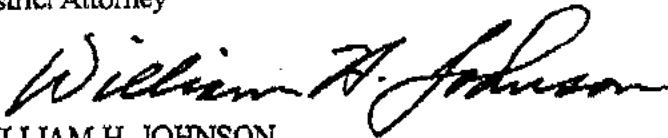
them. Rivera placed the deputies and residents of the area in imminent danger of great bodily injury and death. The deputies returned fire to protect themselves and others in the neighborhood.

We find the deputies' use of deadly force was reasonable and necessary, and that they acted lawfully in self-defense and the defense of others. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By



WILLIAM H. JOHNSON
Deputy District Attorney
(213) 974-5089

c: Deputy Alan Bash, # [REDACTED]
Deputy Herbert Howland, # [REDACTED]
Deputy Robert Chivas, # [REDACTED]
Deputy Janet Bartholomew, # [REDACTED]
Deputy Douglas Jewett, # [REDACTED]
Deputy Andrew Leos, # [REDACTED]